

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
C.A. No. 3:21-cv-00674-MOC-DSC**

BRIAN D. GREEN,

Plaintiff,

v.

SMITH DEBNAM NARRON DRAKE
SAINTSING & MYERS, LLP,
JERRY T. MYERS, and
MELISSA A. TULIS,

Defendants.

**DEFENDANTS' REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS'
MOTION TO STRIKE PLAINTIFF'S FIRST AMENDED COMPLAINT**

NOW COME the defendants Smith Debnam Narron Drake Saintsing & Myers, LLP, Jerry T. Myers, and Melissa A. Tulis (collectively, the "Defendants"), by and through counsel, and pursuant to LCvR 7.1(a), submit their Reply to Plaintiff's Opposition to Defendants' Motion to Strike Plaintiff's First Amended Complaint (the "Response") (Doc. No. 20).

ARGUMENT

Plaintiff's Response (Doc. No. 20, ¶3) acknowledges the procedural impropriety of his second attempt to amend the complaint, captioned as "First Amended Complaint" (Doc. No. 16), and fails to provide any response as to its futility. Instead, and in an effort to seemingly address the procedural impropriety, Plaintiff has filed a Motion to Leave to Amend (Doc. No. 21), attempting once again to amend his

Original Complaint (Doc. No. 1). Defendants provide notice to the Court that they will oppose the Motion to Leave to Amend and timely respond to the same, addressing the futility of amendment.¹ In the interim, however, and for the reasons set forth more particularly in Defendants' Memorandum in Support of Their Motion to Strike Plaintiff's First Amended Complaint (Doc. No. 19), Defendants respectfully request this Court strike Plaintiff's "First Amended Complaint" (Doc. No. 16).

This the 4th day of May, 2022.

/s/ Caren D. Enloe
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Counsel for Defendants

¹ The response is due May 13, 2022.

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of May, 2022, I placed a copy of the foregoing document in the United States mail, first class postage prepaid, addressed as follows:

Brian D. Green
113 Indian Trail Road N.
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/s/ Caren D. Enloe
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